

City Council Introduction: **Monday**, July 26, 2004
Public Hearing: **Monday**, August 2, 2004, at **1:30 p.m.**

Bill No. 04-137

FACTSHEET

TITLE: **CHANGE OF ZONE NO. 04039**, from H-4 General Commercial District to B-5 Planned Regional Business District, requested by Eiger Corporation, on property generally located southeast of the intersection of South 84th Street and Highway 2.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 06/23/04
Administrative Action: 06/23/04

STAFF RECOMMENDATION: Approval.

RECOMMENDATION: Approval (9-0: Pearson, Carroll, Marvin, Taylor, Krieser, Larson, Sunderman, Carlson and Bills-Strand voting 'yes').

ASSOCIATED REQUEST: Special Permit No. 2046A (04R-183) and Use Permit No. 150A (04R-184).

FINDINGS OF FACT:

1. This change of zone request and the associated amendments to Special Permit No. 2046 and Use Permit No. 150 were heard at the same time before the Planning Commission.
2. The purpose of this application is to increase the area zoned B-5 from 35.91 acres to 44.85 acres, and to reduce the area zoned H-4 from 17.61 acres to 8.67 acres.
3. The staff recommendation to approve this change of zone request is based upon the "Analysis" as set forth on p.5-6, concluding that the proposal revises the previously approved Appian Way Phase II development by allocating more area to B-5 while reducing the area in H-4. The waivers are justified and, with minor revisions to the plan, this request complies with the Zoning Ordinance and the Comprehensive Plan.
4. The applicant's testimony is found on p.7. The applicant agreed with all conditions of approval on the associated special permit and use permit amendments.
5. There was no testimony in opposition.
6. On June 23, 2004, the Planning Commission agreed with the staff recommendation and voted 9-0 to recommend approval.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: July 19, 2004

REVIEWED BY: _____

DATE: July 19, 2004

REFERENCE NUMBER: FS\CC\2004\CZ.04039

LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for June 23, 2004 PLANNING COMMISSION MEETING

This is a combined staff report for related items. This report contains a single background and analysis section for all items. However, there are separate conditions provided for the special and use permits.

P.A.S.:

Change of Zone #04039 from H-4 to B-5

Special Permit #2046A for Planned Service Commercial in H-4

Use Permit #150A - Appian Way Phase II

PROPOSAL:

To increase the area zoned B-5 from 35.91 acres to 44.85 acres, and reduce the area zoned H-4 from 17.61 acres to 8.67 acres; and, to reconfigure the Appian Way Road/Amber Hill intersection. The development still contains a total of 357,500 square feet of commercial and retail floor area as originally allowed (325,000 square feet on ten lots in B-5; 32,500 square feet on two lots in H-4).

LOCATION: Southeast of the intersection of South 84th Street and Highway 2.

WAIVER REQUESTS:

1. Eliminate the preliminary plat process.
2. Allow a cul-de-sac in excess of 1,000'.
3. Setbacks adjacent to outlots.
4. Sidewalk along Highway 2.
5. Transfer of sewage from one drainage basin to another.
6. Lot lines not at a right angle to the street.

LAND AREA: Approximately 53.52 acres.

CONCLUSION: This request revises the previously approved Appian Way Phase II development by allocating more area to B-5 while reducing the area in H-4. As before, the waivers are justified, and with minor revisions to the plan this request complies with the Zoning Ordinance and Comprehensive Plan.

RECOMMENDATION:

Change of Zone #04039

Special Permit #2046A

Use Permit #150A

Approval

Conditional Approval

Conditional Approval

Waivers:

Special Permit #2046A:

- | | | |
|----|--|----------|
| 1. | Eliminate the preliminary plat process. | Approval |
| 2. | Allow a cul-de-sac in excess of 1,000'. | Approval |
| 3. | Setbacks adjacent to outlots. | Approval |
| 4. | Sidewalk along Highway 2. | Approval |
| 5. | Transfer of sewage from one drainage basin to another. | Approval |
| 6. | Lot lines not at a right angle to the street. | Approval |

Use Permit #150A:

- | | | |
|----|--|----------|
| 1. | Eliminate the preliminary plat process. | Approval |
| 2. | Allow a cul-de-sac in excess of 1,000'. | Approval |
| 3. | Setbacks adjacent to outlots. | Approval |
| 4. | Sidewalk along Highway 2. | Approval |
| 5. | Transfer of sewage from one drainage basin to another. | Approval |
| 6. | Lot lines not at a right angle to the street. | Approval |

GENERAL INFORMATION:

LEGAL DESCRIPTIONS:

Change of Zone #04039 - See attached.

Special Permit #2046A - See attached.

Use Permit #150A - See attached.

EXISTING ZONING: H-4 General Commercial and B-5 Planned Regional Business

SURROUNDING LAND USE AND ZONING:

North:	Regional Shopping Center	B5
South:	Agriculture, Residential	AG
East:	Residential	AG & AGR
West:	Agriculture, Residential	AG & AGR

ASSOCIATED HISTORY: April 16, 2004 - The final plat of Appian Way Phase II Addition was approved creating 2 lots and eight outlots.

March 15, 2004 - , Annexation #03002, Change of Zone #3411, Special Permit #2046, and Use Permit #150 to allow 357,500 square feet of commercial and retail floor area (290,000 square feet on eight lots in B-5; 67,500 square feet on five lots in H-4).

November 5, 2001 - The annexation agreement covering the land on both sides of Highway 2 at South 91st Street was approved by the City Council.

November 5, 2001 - The preliminary plat and use permit for Appian Way (now Prairie Lakes) was approved by the City Council, north of Highway 2.

March 26, 2001 - The Southeast Lincoln/Highway 2 Subarea Plan was approved by the City Council.

COMPREHENSIVE PLAN SPECIFICATIONS:

Page F27 - Urban Growth Tiers - This site is within the City's Future Service Limit.

Page F95 - Bicycle and Trail Standards for Developing Areas - The Plan calls for the trail system to extend along both South 91st Street and the Omaha Public Power rail line.

Page F156 - Subarea Planning - Southeast Lincoln/Highway 2 Subarea Plan.

Southeast Lincoln/Highway 2 Subarea Plan:

Figure 2 - Designates office, service and residential transition uses for this site.

Page 9 - Promote a Desirable Entryway - Calls for a 400' wide open space corridor along this section of Highway 2.

Page 9 - Designates a regional shopping center at this location.

Page 10 - Commercial transition - Within commercial areas, office and lower intensity uses along with appropriate buffer areas should be developed as a transition to adjacent residential uses.

Page 13 - Entryway Corridor - To preserve the entryway corridor, the land use and transportation decisions are equally important as landscaping or architectural standards.

Page 57 - The Greenprint Challenge: Implementation Principles

- Obtain reasonably constrained regulations – Maintaining a balance between the natural and human built environment is always a delicate one. Planning policy and regulatory approaches employed in achieving the Plan's Vision and Greenprint Challenge should strive to be effective, tempered, pragmatic, circumscribed, and respectful of private property rights.

- Prevent the creation of a "wall-to-wall city" through the use of green space partitions – As cities and villages expand, establishing corridors and districts of green should be part of the growth process. This often requires the advance delineation of these areas and the means for securing their on going maintenance.

- Establish effective incentives for natural resource feature preservation Securing the long term permanence of green space is a basic dilemma in natural resources planning. The use of "green space development incentives" (e.g., setting aside non-buildable areas, creating green space preserves, density bonuses) should be a primary consideration in implementing this Plan.

UTILITIES: All utilities are available to the site.

TRAFFIC ANALYSIS: The individual lots will be provided access with an internal private roadway system. The Subarea Plan shows the realigned South 84th and South 91st Streets as arterial streets. Highway 2 is also classified as an arterial street. The Capital Improvements Program (C.I.P.) currently identifies road improvements in South 84th Street in 2003-2004. South 91st Street for approximately 600' south of Highway 2 is to be built by the developer. The 1.9 million square feet of commercial floor area permitted by the Appian Way annexation agreement for the land on both sides of Highway 2 generate a certain number of vehicle trips which trigger road improvements addressed in the agreement. A total of 5,283 p.m. peak hour vehicle trips were allowed by the annexation agreement, with 1,239 of those trips assigned to this development.

ANALYSIS:

1. Appian Way Phase II with the associated waivers was approved on March 15, 2004 in largely the same configuration shown now. The approximate eastern one-half of the development has been final platted as part of Appian Way Phase II Addition.
2. As approved, there are two H-4 tracts included in Special Permit #2046 for planned service commercial (one at the west edge of the development and another at the east edge). This combined request is proposing to change the zoning on the western H-4 tract to B-5 and include it in Use Permit 150A which covers the B-5 area.
3. The proposed layout enlarges former Lot 1, Block 3, and changes the use from warehousing to hotel/motel. H-4 was originally required to allow the warehousing, but with the change in use it is no longer needed. The remaining H-4 is in excess of five acres and can stand alone. These combined applications are to provide a larger Lot 1, Block 3 to accommodate a hotel/motel.
4. The site plan includes a 20' easement for the bike trail. At the west end of the trail, it leaves the easement and is routed through Outlot F. The grading plan shows a small dam structure on Outlot F, and the trail is apparently routed over the top of it to provide a suitable platform. The trail easement should be routed to follow the trail, and the final grading and trail location will be subject to approval by the Parks and Recreation Department.
5. The following minor corrections/additions to the plans are required:
 - a. The total floor area shown in the Land Use Table is actually 351,800, not 357,500 as shown.
 - b. A cumulative total for Net PM Trips added at the bottom of the column.
 - c. Required parking for hotels/motels under Parking Ratios revised to include "PLUS 1 SPACE PER 100 SQUARE FEET OF FLOOR AREA FOR ACCESSORY USES."
 - d. General Note #13 revised to reference only LMC Section 27.37.025, and by deleting "OR WAIVED BY CITY COUNCIL."

- e. The correct legal and metes and bounds descriptions for both the B-5 use permit area and the H-4 special permit area.
- f. The Waivers list revised to include: 6. LOT LINES NOT AT RIGHT ANGLES TO STREETS.

Prepared by:

Brian Will, AICP, 441-6362, bwill@ci.lincoln.ne.us
Planner

June 8, 2004

APPLICANT: Eiger Corporation
RR#1, Box 93A
Adams, NE 68301 432-8975

CONTACT: Al Jambor
HWS Consulting
825 J Street
Lincoln, NE 68508

OWNER: Andermatt, LLC
RR#1, Box 93A
Adams, NE 68301

**CHANGE OF ZONE NO. 04039,
SPECIAL PERMIT NO. 2046A,
and
USE PERMIT NO. 150A**

PUBLIC HEARING BEFORE PLANNING COMMISSION:

June 23, 2004

Members present: Pearson, Carroll, Marvin, Taylor, Krieser, Larson, Sunderman, Carlson and Bills-Strand.

Staff recommendation: Approval of the change of zone and conditional approval of the amendments to the special permit and use permit.

Ex Parte Communications. None.

This application was removed from the Consent Agenda and had separate public hearing at the request of Commissioner Taylor.

Proponents

1. DaNay Kalkowski appeared on behalf of **Eiger Corp**, the owner and developer of the property located south of Highway 2 in the vicinity between 84th Street and 91st Street. The annexation, zoning changes, use permit and special permit for this property were heard previously, at which time the majority of the property was zoned B-5 with H-4 on the east and west ends to accommodate some warehouse uses. These applications represent an amendment to change the site plan which will facilitate a larger lot on the south side of the internal roadway for a hotel use. There has been interest expressed in a larger full-service hotel on this site. The internal road alignment has been changed a little bit to the north so there is more room for lot area on the south side of the road. The connections to 84th Street are in the same location as previously. The uses on the south side of the road have changed. The warehouse use has been removed and they are now showing one larger hotel site. By removing the warehouse use, the H-4 zoning is no longer needed, so this application requests B-5 zoning for the entire area. Because the zoning is being amended, adjustments to the use permit and special permit are required. The square footage is not really changing but merely being adjusted in the special permit and use permit for the change of zone.

Kalkowski advised that the applicant did send out notice for a neighborhood meeting and no one attended, and she has received no phone calls.

Taylor stated that he removed this from the Consent Agenda so that he could have a more thorough understanding of the changes.

Pearson inquired whether this has been discussed with the Cheney representatives. Kalkowski stated that notice was sent to the residents on the east side and to the Cheney neighborhood organization contact, but there was no response.

Taylor inquired about the trail. The HWS Consulting Group representative explained that the trail will run on the north side of the railroad tracks from 91st Street on the developer's property, and then it takes a bend to get up over a small dam and connect back into 84th Street, where eventually it is planned to go south on 84th Street in the long term.

Marvin inquired about the waiver to allow the transfer of sewage from one drainage basin to another. Kalkowski explained that a portion of this property would drain into the Beal Slough drainage basin, so the waiver has been requested to allow all of it to drain into the Antelope Creek drainage basin. That was the way that it was master planned when the property was annexed.

There was no testimony in opposition.

CHANGE OF ZONE NO. 04039

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 23, 2004

Larson moved approval, seconded by Carroll and carried 9-0: Pearson, Carroll, Marvin, Taylor, Krieser, Larson, Sunderman, Carlson and Bills-Strand voting 'yes'. This is a recommendation to the City Council.

SPECIAL PERMIT NO. 2046A

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 23, 2004

Larson moved to approve the staff recommendation of conditional approval, seconded by Carroll.

Pearson stated that the last time this came before the Commission she voted against the development and she will do the same today; however, she voted in favor of the change of zone because it is less restrictive.

Motion for conditional approval carried 8-1: Carroll, Marvin, Taylor, Krieser, Larson, Sunderman, Carlson and Bills-Strand voting 'yes'; Pearson voting 'no'. This is a recommendation to the City Council.

USE PERMIT NO. 150A

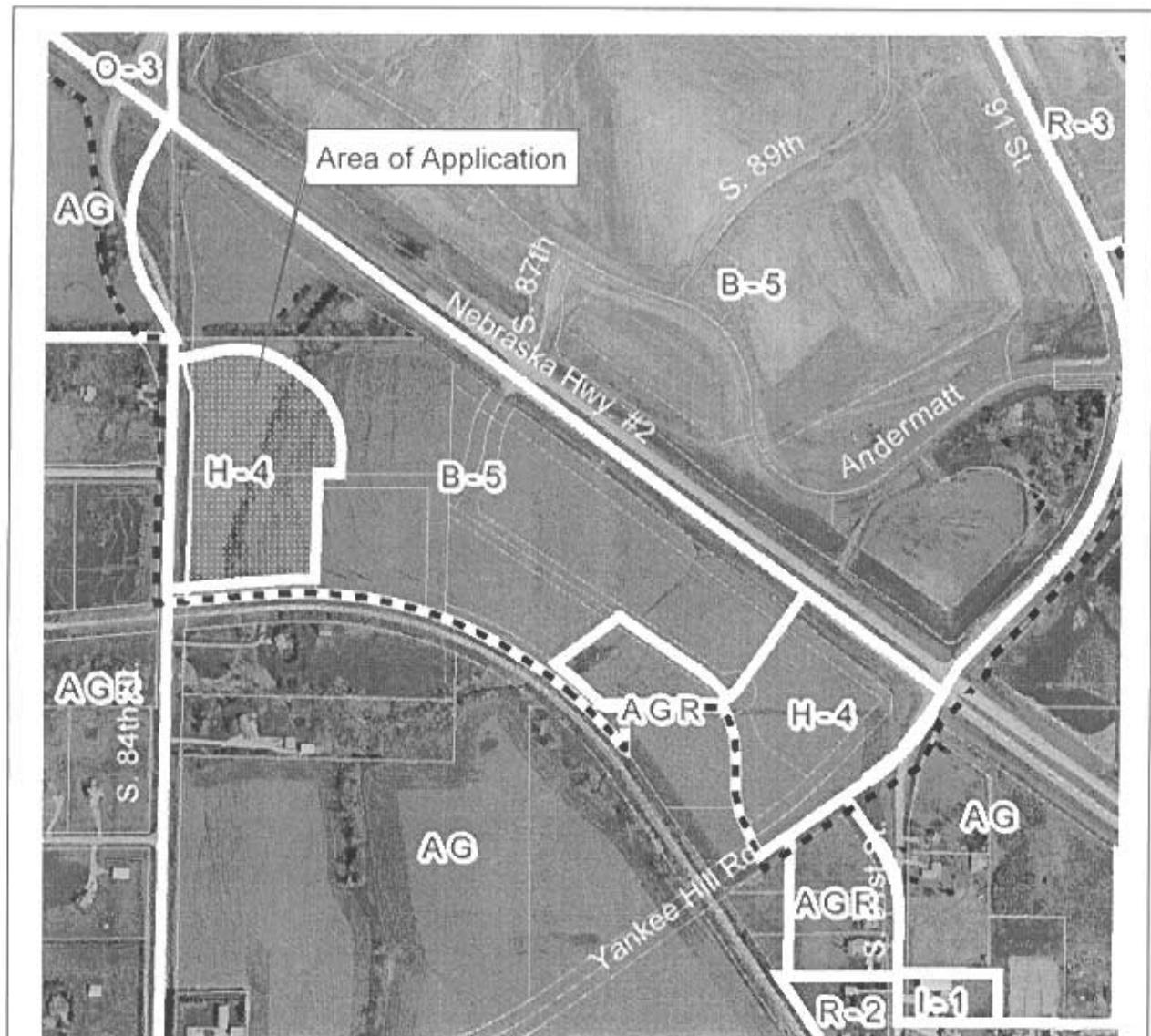
ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

June 23, 2004

Larson moved to approve the staff recommendation of conditional approval, seconded by Carroll.

Taylor noted that they are waiving sidewalks but he is glad to see the trail. He thinks it is very important to always have alternate modes of transportation.

Motion for conditional approval carried 8-1: Carroll, Marvin, Taylor, Krieser, Larson, Sunderman, Carlson and Bills-Strand voting 'yes'; Pearson voting 'no'. This is a recommendation to the City Council.

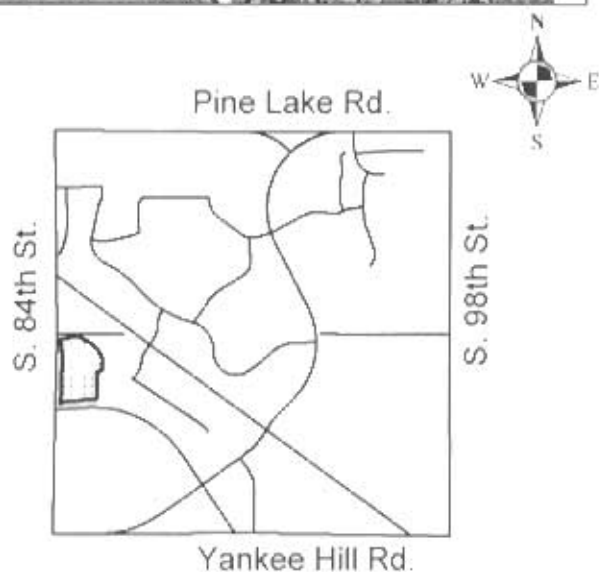


Change of Zone #04039 S 91st St. & Hwy #2

Zoning:

R-1 to R-8	Residential District
AG	Agriculture District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile
Sec. 23 T09N R07E



APPIAN WAY REGIONAL CENTER, PHASE 2
LEGAL DESCRIPTION
FOR WESTERLY H-4 TO B-5 ZONING CHANGE

A TRACT OF LAND COMPOSED OF A PART OF LOTS 83, 114 AND 115, IRREGULAR TRACTS, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, AND A PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, ALL IN TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF SAID LOT 115, SAID POINT BEING LOCATED ON THE EXISTING EASTERLY RIGHT OF WAY LINE OF 84TH STREET AND 70.00 EASTERLY OF, PERPENDICULAR MEASUREMENT, THE WEST LINE OF SAID SOUTHWEST QUARTER SECTION 23; THENCE N 00°52'06" E ALONG SAID EXISTING EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 50.23 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING N 00° 52'06" E ALONG SAID EXISTING EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 117.10 FEET TO A CORNER OF SAID EASTERLY RIGHT OF WAY LINE; THENCE N 02°10'26" E ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 60.05 FEET; THENCE N 01° 25'12" E ALONG SAID EASTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 427.70 FEET TO THE POINT OF CURVATURE OF A 585.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE NORTHERLY ALONG SAID EASTERLY RIGHT-OF-WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 08°25'33" AND ARC DISTANCE OF 86.03 FEET, THE CHORD OF SAID CURVE BEARS N 02°47'39" W, A DISTANCE OF 85.95 FEET TO A CORNER OF SAID LOT 114; THENCE CONTINUING NORTHERLY ALONG THE FUTURE EASTERLY RIGHT-OF-WAY LINE AND SAID CURVE, THROUGH A CENTRAL ANGLE OF 12°19'46" AND ARC DISTANCE OF 125.88 FEET, THE CHORD OF SAID CURVE BEARS N 13°10'18" W, A DISTANCE OF 125.64 FEET; THENCE N 79°35'14" E, A DISTANCE OF 150.77 FEET TO THE POINT OF CURVATURE OF A 300.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 45°41'48" AND ARC DISTANCE OF 239.27 FEET, THE CHORD OF SAID CURVE BEARS S 77°33'52" E, A DISTANCE OF 232.98 FEET; THENCE S 54°42'58" E, A DISTANCE OF 83.46 FEET TO THE POINT OF CURVATURE OF A 300.00 FOOT RADIUS CURVE CONCAVE TO THE WEST; THENCE SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 54°56'08" AND ARC DISTANCE OF 287.64 FEET, THE CHORD OF SAID CURVE BEARS S 27°14'54" E, A DISTANCE OF 276.75 FEET; THENCE S 00°13'10" W, A DISTANCE OF 94.48 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 114; THENCE N 89°46'50" W, ALONG THE SOUTHERLY LINE OF SAID LOT 114, A DISTANCE OF 73.74 FEET; THENCE S 00°22'01" W, A DISTANCE OF 372.97 FEET TO THE POINT OF CURVATURE OF A 1544.43 FOOT RADIUS CURVE CONCAVE TO THE SOUTH; THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 06°37'11" AND ARC DISTANCE OF 178.44 FEET, THE CHORD OF SAID CURVE BEARS S 88°38'35" W, A DISTANCE OF 178.34 FEET; THENCE S 85°20'00" W, A DISTANCE OF 298.67 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 389,611.56 SQUARE FEET (8.94 ACRES) MORE OR LESS.

